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OFFICE OF PETITIONS

In re Application of :
Kagawa et al. :
Application No. 09/736,440 : DECISION GRANTING PETITION
Filed: 15 December, 2000 :
Attorney Dkt. No. 108143 :

This is a decision on the petition filed on 30 July, 2001, requesting that the above-identified application, including 27 sheets of drawings, be accorded a filing date of 15 December, 2000.

On 15 December, 2000, the application was filed.

On 31 January, 2001, Initial Patent Examination Division (IPED) mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had been deposited without drawings, and that applicant should reconsider whether drawings are necessary under 35 U.S.C. § 113 (first sentence).

On 8 February, 2001, petitioners filed 27 sheets of drawings. Thereafter, the application was processed using these drawings, but with an 8 January, 2001, filing date. Subsequently, on 30 July, 2001, the present petition, authorization to charge counsel's deposit account for the petition fee, and a copy of the 27 sheets of drawings, were filed. Petitioners argue that 27 sheets of drawings were filed with the other application papers on 15 December, 2000, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied on 30 July, 2001. The postcard receipt shows an Office date stamp of 15 December, 2000, and acknowledges receipt of 27 pages of drawings. Petitioners request that the application, including 27 sheets of drawings, be accorded a filing date of 15 December, 2000.

A review of the record reveals that no sheets of drawings are located among the application papers deposited on 15 December, 2000. However, the evidence is convincing that the application papers deposited on 15 December, 2000, included 27 sheets of

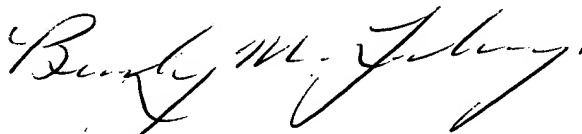
drawings, which were subsequently misplaced in the Office. Therefore, the application, including 27 sheets of drawings, is entitled to a filing date of 15 December, 2000.

The Notice of Incomplete Nonprovisional Application mailed on 31 January, 2001, was sent in error is hereby vacated.

In view of the above, the petition is granted. No petition fee has been paid and none is due.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to 15 December, 2000.

Telephone inquiries should be directed to Petitions Attorney Douglas I. Wood at 703 308-6918.



Beverly M. Flanagan
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Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy